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6 **BEFORE THE**
7 **CALIFORNIA BOARD OF ACCOUNTANCY**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. AC 2011-10

11 **STEPHEN ANTHONY FRLEKIN**
12 **120 W. Sycamore Ave**
13 **El Segundo, CA 90245**
14 **Certified Public Accountant Certificate No.**
15 **29811**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

16 **FINDINGS OF FACT**

17 1. On or about August 30, 2011, Complainant Patti Bowers, in her official capacity as
18 the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs,
19 filed Accusation No. AC 2011-10 against Stephen Anthony Frlekin (Respondent) before the
20 California Board of Accountancy. (Accusation attached as Exhibit A.)

21 2. On or about May 30, 1980, the California Board of Accountancy (CBA) issued
22 Certified Public Accountant Certificate No. 29811 to Respondent. The Certified Public
23 Accountant Certificate expired on October 1, 2009, and has not been renewed. Nevertheless, the
24 board has jurisdiction to adjudicate this case and render a decision pursuant to Section 5109 of the
25 Business and Professions Code.

26 3. On or about September 26, 2011, Respondent was served by Certified and First Class
27 Mail copies of the Accusation No. AC 2011-10, Statement to Respondent, Notice of Defense,
28 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,

1 and 11507.7) at Respondent's address of record which, pursuant to California Code of
2 Regulations, title 16, section 3, is required to be reported and maintained with the CBA, which
3 was and is: 120 W. Sycamore Ave, El Segundo, CA 90245.

4 4. Service of the Accusation was effective as a matter of law under the provisions of
5 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
6 124.

7 5. On or about October 26, 2011, the aforementioned documents were returned by the
8 U.S. Postal Service marked "No Forwarding Address." The address on the documents was the
9 same as the address on file with the CBA. Respondent failed to maintain an updated address with
10 the CBA and the CBA has made attempts to serve the Respondent at the address on file.
11 Respondent has not made himself available for service and therefore, has not availed himself of
12 his right to file a notice of defense and appear at hearing.

13 6. Government Code section 11506 states, in pertinent part:

14 (c) The respondent shall be entitled to a hearing on the merits if the respondent
15 files a notice of defense, and the notice shall be deemed a specific denial of all parts
16 of the accusation not expressly admitted. Failure to file a notice of defense shall
constitute a waiver of respondent's right to a hearing, but the agency in its discretion
may nevertheless grant a hearing.

17 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
18 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. AC
19 2011-10.

20 8. California Government Code section 11520 states, in pertinent part:

21 (a) If the respondent either fails to file a notice of defense or to appear at the
22 hearing, the agency may take action based upon the respondent's express admissions
23 or upon other evidence and affidavits may be used as evidence without any notice to
respondent.

24 9. Pursuant to its authority under Government Code section 11520, the CBA finds
25 Respondent is in default. The CBA will take action without further hearing and, based on the
26 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
27 taking official notice of all the investigatory reports, exhibits and statements contained therein on
28 file at the CBA's offices regarding the allegations contained in Accusation No. AC 2011-10, finds

1 that the charges and allegations in Accusation No. AC 2011-10, are separately and severally,
2 found to be true and correct by clear and convincing evidence.

3 10. Taking official notice of its own internal records, pursuant to Business and
4 Professions Code section 5107, it is hereby determined that the reasonable costs for Investigation
5 and Enforcement is \$2,804.68 as of November 1, 2011.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Stephen Anthony Frlekin has
8 subjected his Certified Public Accountant Certificate No. 29811 to discipline.

9 2. The agency has jurisdiction to adjudicate this case by default.

10 3. The California Board of Accountancy is authorized to revoke Respondent's Certified
11 Public Accountant Certificate based upon the following violations alleged in the Accusation
12 which are supported by the evidence contained in the Default Decision Evidence Packet in this
13 case.:

14 a. Respondent is subject to disciplinary action under sections 490 and 5100, subdivision
15 (a), in conjunction with California Code of Regulations, title 16, section 99, in that on or about
16 December 4, 2009, Respondent was convicted of crimes substantially related to the qualifications,
17 functions, or duties of a Certified Public Accountant, as follows:

18 1. On or about December 4, 2009, after pleading guilty with admissions to
19 enhancements of Penal Code section 186.11(a)(2) [aggravated white collar crime – over
20 \$500,000], Respondent was convicted of 152 felony counts, one count violating Penal Code
21 sections 487(a)/508 [embezzlement by employee], 48 separate counts violating Penal Code
22 section 502(c)(1) [computer access and fraud] and 103 separate counts violating Penal Code
23 section 186.10(a) [money laundering] in the criminal proceeding entitled *The People of the State*
24 *of California v. Stephen Anthony Frlekin* (Super. Ct. Orange County, 2009, No. 09ZF0075FA).
25 The Court sentenced Respondent to twelve (12) years in prison, and ordered him to pay
26 \$2,663,600 in restitution.

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Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute,

It is so ORDERED February 2, 2012

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Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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2 MARC D. GREENBAUM
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8 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. AC 2011-10

11 **STEPHEN ANTHONY FRLEKIN**
12 120 W. Sycamore Ave
13 El Segundo, CA 90245

A C C U S A T I O N

14 Certified Public Accountant Certificate No. 29811

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Patti Bowers (Complainant) brings this Accusation solely in her official capacity as
20 the Executive Officer of the California Board of Accountancy, Department of Consumer
21 Affairs (Board).

22 2. On or about May 30, 1980, the Board issued Certified Public Accountant Certificate
23 Number 29811 to Stephen Anthony Frlekin (Respondent). The Certified Public Accountant
24 Certificate expired on October 1, 2009, and has not been renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board under the authority of the following
27 laws. All section references are to the Business and Professions Code unless otherwise indicated.

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STATUTORY PROVISIONS

4. Section 490 provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

5. Section 5063, subdivision (a), states, in the pertinent part:

"A licensee shall report to the board in writing of the occurrence of any of the following events . . . within 30 days of the date the licensee has knowledge of these events:

"(1) The conviction of the licensee of any of the following:

"(A) A felony. . . ."

6. Section 5100 states, in pertinent part:

"After notice and hearing the board may revoke, suspend, or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

"(a) Conviction of any crime substantially related to the qualifications, functions and duties of a certified public accountant or a public accountant.

....

"(g) Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter.

....

"(i) Fiscal dishonesty or breach of fiduciary responsibility of any kind.

....

"(k) Embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses. . . ."

7. Section 5106 states:

"A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this article. The record of the conviction shall be conclusive evidence thereof. The board may order the certificate or permit suspended or revoked,

1 or may decline to issue a certificate or permit, when the time for appeal has elapsed, or the
2 judgment of conviction has been affirmed on appeal or when an order granting probation is made,
3 suspending the imposition of sentence, irrespective of a subsequent order under the provisions of
4 Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter
5 a plea of not guilty, or setting aside the verdict of guilty or dismissing the accusation, information
6 or indictment."

7 8. Section 5109 states:

8 "The expiration, cancellation, forfeiture, or suspension of a license, practice, privilege, or
9 other authority to practice public accountancy by operation of law or by order or decision of the
10 board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the
11 board of jurisdiction to commence or proceed with any investigation of or action or disciplinary
12 proceeding against the licensee, or to render a decision suspending or revoking the license."

13 REGULATORY PROVISION

14 9. California Code of Regulations, title 16, section 99 states:

15 "For the purposes of denial, suspension, or revocation of a certificate or permit pursuant to
16 Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act
17 shall be considered to be substantially related to the qualifications, functions or duties of a
18 certified public accountant or public accountant if to a substantial degree it evidences present or
19 potential unfitness of a certified public accountant or public accountant to perform the functions
20 authorized by his or her certificate or permit in a manner consistent with the public health, safety,
21 or welfare. Such crimes or acts shall include but not be limited to those involving the following:

22 "(a) Dishonesty, fraud, or breach of fiduciary responsibility of any kind;

23

24 "(d) Violation of any of the provisions of Chapter 1, Division III of the Business and
25 Professions Code or willful violation of any rule or regulation of the board."

26 COST RECOVERY

27 10. Section 5107, subdivision (a), states:
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1 "The executive officer of the board may request the administrative law judge, as part of the
2 proposed decision in a disciplinary proceeding, to direct any holder of a permit or certificate
3 found to have committed a violation or violations of this chapter to pay to the board all reasonable
4 costs of investigation and prosecution of the case, including, but not limited to, attorneys' fees.
5 The board shall not recover costs incurred at the administrative hearing."

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Conviction of A Substantially Related Crime)**

8 11. Respondent is subject to disciplinary action under sections 490 and 5100, subdivision
9 (a), in conjunction with California Code of Regulations, title 16, section 99, in that on or about
10 December 4, 2009, Respondent was convicted of crimes substantially related to the qualifications,
11 functions, or duties of a Certified Public Accountant, as follows:

12 a. On or about December 4, 2009, after pleading guilty with admissions to
13 enhancements of Penal Code section 186.11(a)(2) [aggravated white collar crime – over
14 \$500,000], Respondent was convicted of 152 felony counts, one count violating Penal Code
15 sections 487(a)/508 [embezzlement by employee], 48 separate counts violating Penal Code
16 section 502(c)(1) [computer access and fraud] and 103 separate counts violating Penal Code
17 section 186.10(a) [money laundering] in the criminal proceeding entitled *The People of the State*
18 *of California v. Stephen Anthony Frlekin* (Super. Ct. Orange County, 2009, No. 09ZF0075FA).
19 The Court sentenced Respondent to twelve (12) years in prison, and ordered him to pay
20 \$2,663,600 in restitution.

21 b. The circumstances underlying the conviction are that on or about December 1, 2007,
22 through on or about June 25, 2008, Respondent embezzled large sums of money from his
23 employer Veterinary Pet Insurance Company (VPI) by making monetary wire-transfers of VPI
24 funds to various international bank accounts.

25 **SECOND CAUSE FOR DISCIPLINE**

26 **(Fiscal Dishonesty)**

27 12. Respondent is subject to disciplinary action under section 5100, subdivision (i), in
28 that on or about December 1, 2007, through on or about June 25, 2008, Respondent committed

1 152 separate acts of fiscal dishonesty by embezzling funds through VPI, his employer.

2 Complainant refers to and by this reference incorporates the allegations set forth above in
3 paragraph 11, subparagraphs a and b, inclusive, as though set forth fully.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Misappropriation of Funds)**

6 13. Respondent is subject to disciplinary action under section 5100, subdivision (k), in
7 that on or about December 1, 2007, through on or about June 25, 2008, Respondent diverted his
8 employer VPI's assets for his own personal use. Complainant refers to and by this reference
9 incorporates the allegations set forth above in paragraph 11, subparagraphs a and b, inclusive, as
10 though set forth fully.

11 **FOURTH CAUSE FOR DISCIPLINE**

12 **(Failure to Self Report)**

13 14. Respondent is subject to disciplinary action under section 5100, subdivision (g), and
14 5063(1)(a), in that Respondent failed to report his December 4, 2009, convictions to the board
15 within the required 30 days.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending or otherwise imposing discipline upon Certified Public Accountant Certificate Number 29811, issued to Stephen Anthony Frlekin;
2. Ordering Stephen Anthony Frlekin to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 5107; and
3. Taking such other and further action as deemed necessary and proper.

DATED: August 30, 2011

Patti Bowers
PATTI BOWERS
Executive Officer
California Board of Accountancy
Department of Consumer Affairs
State of California
Complainant

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